

REMARKS

Reconsideration of this application as amended is respectfully requested. In the Final Office Action claims 1, 3-11, 13-18, 20-22, 24-33, 35-43 and 45-50 are pending. Claims 1, 3-11, 13-18, 20-22, 24-33, 35-43 and 45-50 are rejected. By way of the present response Applicant has: 1) amended claims 1, 8, 15, 20, 27, 31-33, 35-43 and 45-50; 2) added no new claims; and 3) canceled no claims. As such, claims 1, 3-11, 13-18, 20-22, 24-33, 35-43 and 45-50 remain pending. Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented. Applicant submits no new matter has been added.

I. INTERVIEW WITH EXAMINER

An Interview with the Examiner was conducted on January, 15, 2008. The substance of the interview included a discussion of proposed claim amendments. The Examiner indicated that the claim amendments do not appear to overcome the cited prior art. The Examiner suggested possible ways in which the prior art might be overcome after further consideration by the Examiner. No agreement was reached with respect to the claims.

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 3-7, 18, 20-22, 24-33, 35-42 and 45-50 are rejected under 35 U.S.C §103(a) as being unpatentable over U.S. Patent No. 6,249,792, Zwilling, et al., (hereinafter "Zwilling") in view of U.S. Patent No. 5,963,962, Hitz, et al.,

(hereinafter "Hitz") and has rejected claims 8-11, 13-17, 40-43, and 45-49 under 35 U.S.C. §103(a) as unpatentable over Zwilling. With this response, Applicant does not admit that either Zwilling or Hitz are prior art and expressly reserves the right to swear behind the references at a later date.

a. Independent claims 1, 8, 15, 27, 31, 33 and 40

With respect to independent claims 1, 8, 15, 27, 31, 33 and 40, Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the rejections. Applicant submits that the combination cited by the Office Action at least fails to disclose the limitation, "each storage tree representing active snapshots of user-generated data stored from each one of a plurality of remote computer systems taken at different points in time." Claims 1, 8, 15, 27, 31, 33 and 40 have been similarly amended to contain substantially the same limitation, and therefore will be discussed as a group. Applicant submits that both the cited Zwilling and Hitz references, individually or in combination, describe operations within each reference's own local file system and not operations performed on remote computer systems as recited in Applicant's claims 1, 8, 15, 27, 31, 33 and 40. Zwilling discloses an on-line dynamic file shrink facility composed of shrinking log files within a local file system. See Zwilling at p. 14. Likewise, Hitz describes maintaining the consistency of a local file system as it changes over time to avoid data loss due to system crashes by creating read-only copies (snapshots) of the file system. See Hitz at cols. 3-4, lines 66-1. Thus, Applicant believes the cited combination does not teach or fairly suggest this limitation. Therefore, Applicant does not believe the cited combination teaches each limitation recited in Applicant's

claims. If the rejection of claims 1, 8, 15, 27, 31, 33 and 40 is maintained, Applicant respectfully requests the Office Action clearly explain or indicate where in the cited references this limitation is taught. Accordingly, reconsideration and withdrawal of the claim rejections is respectfully requested.

a. Independent claims 1, 27, 31 and 40

With respect to claims 1, 27, 31 and 40, Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the rejections. Applicant submits that the combination cited by the Office Action at least fails to disclose the limitation, "the plurality of nodes including leaf nodes representing data blocks of the user-generated data stored from each one of the plurality of remote computer systems and root and intermediate nodes representing data blocks of system-generated data created by the storage device, the system-generated data including pointers to reference other data blocks of the user-generated data to enable overlapping and sharing of the user-generated data between and among different snapshots of the plurality of snapshots." Applicant submits that support for this amendment can be found in at least paragraphs [0056-0057] of Applicant's specification. Claims 1, 27, 31 and 40 have been similarly amended to contain substantially the same limitation, and therefore will be discussed as a group. Applicant submits that the cited combination of Zwilling and Hitz references does not describe the above limitation because Zwilling and Hitz, individually or in combination, fails to describe storage trees containing a plurality of nodes including lead nodes of data generated by users on a plurality of remote computer systems. Thus, Applicant believes the cited combination does not teach or fairly suggest this

limitation. Therefore, Applicant does not believe the cited combination teaches each limitation required by the claims. If the rejection of claims 1, 27, 31 and 40 is maintained, Applicant respectfully requests the Office Action clearly explain or indicate where in the cited references this limitation is taught. Accordingly, reconsideration and withdrawal of the claim rejections is respectfully requested.

a. Independent claims 8, 20, 33 and 47

With respect to claims 8, 20, 33 and 47, Applicant has amended the claims and respectfully requests reconsideration and withdrawal of the rejections. Applicant submits that the combination cited by the Office Action at least fails to disclose the limitation, "wherein each block of data is stored within a log as contiguous data in a sequential order and wraps around to the beginning of the log once the end is reached so that the size of the log does not increase beyond its originally created size." Support for the above limitation can be found in at least Applicant's specification at paragraphs [00113] and [00121-00123]. Claims 8, 20, 33 and 47 have been similarly amended to contain substantially the same limitation, and therefore will be discussed as a group. Applicant submits that the combination cited by the Office Action fails to teach or describe the above limitation. Applicant submits that Zwilling *only* applies to "any file system which allows files to grow above their originally created value." See Zwilling, col. 14, lines 60-64. Thus, Zwilling fails to describe a file system that "does not increase beyond its originally created size" as recited in Applicant's claims. Hitz fails to cure this deficiency since there is nothing in Hitz that teaches or fairly suggests a file system that "does not increase beyond its originally created size."

Additionally, Applicant spoke with the Examiner concerning this limitation over the telephone and the Examiner indicated that Zwilling, columns 10 and 12, may anticipate the above limitation. However, Applicant has reviewed the cited sections of Zwilling and has been unable to discern any part of the Zwilling reference that teaches the above limitation because *all* the files disclosed in Zwilling are files that grow over time. Specifically, the "Relational Database Implementation" of Zwilling, column 10, contains at least a primary data file and a log file and "[t]he files can grow automatically from the size specified when they were created." See Zwilling, col. 10, lines 43-48. Since Zwilling, column 10, lines 49-55, indicates that the log file consists of multiple physical files, and we know that the "files can grow automatically," it logically follows that the log files disclosed in Zwilling can also grow automatically. If this fact is considered along with the fact that Zwilling is expressly limited to "any file system which allows files to grow above their originally created value," it logically follows that the "Relational Database Implementation" of Zwilling, column 10, is likewise limited to files that at least potentially grow beyond their original size. Applicant submits that this limitation expressly teaches away from Applicant's claim limitation, "wherein data stored within the log is stored as contiguous data in a sequential order and wraps around to the beginning of the log once the end is reached so that *the size of the log does not increase beyond its originally created size.*"

Likewise, the disclosure within Zwilling, column 12, refers to the "Relational Database Implementation," and thus, the log files disclosed therein must also grow beyond their original size based on the discussion above. Further, it makes sense that Zwilling only applies to files which grow beyond their originally allocated size

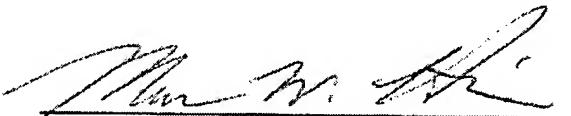
because that is the specific problem the inventors in Zwilling were trying to solve. See e.g., Zwilling, Background, lines 22-46. The inventors of Zwilling were trying to solve the problem of reducing unused space in files that grow beyond their originally allocated size. If the files never grew, then the problem Zwilling is solving would not exist, and therefore, there would be no need for the solution contained in the Zwilling reference. Thus, Applicant does not believe the combination cited by the Office Action teaches this limitation. Accordingly, for this additional reason Applicant submits that the combination cited by the Office Action does not fairly teach or suggest each limitation required by Applicant's claim 47. If the rejection of claims 8, 20, 33 and 47 is maintained, Applicant respectfully requests that the Office Action clearly explain or indicate where in the cited combination this limitation is taught. As a result, Applicant respectfully requests withdrawal of the rejection of claim 47 as well as the rejections of the associated dependent claims.

CONCLUSION

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance. If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Matt Hindman at (408) 720-8300.

Respectfully submitted,
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